IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Niranjan Vyas & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 1476/2006

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Date of Order: November 20, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. M.K. Trivedi, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Neel Kamal Bohra, for the non-petitioner No.2.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioners seek quashing of criminal proceedings pending against them in Criminal Case No. 201/2002 (State Vs. Niranjan Vyas & ors.) in the Court of the Additional Chief Judicial Magistrate, Bilara, district Jodhpur (for short, "the trial Court" hereinafter) for the offence under Section 498-A, IPC.

I have heard learned counsel for the parties. Carefully gone through the order impugned dated 7-7-2006 passed by the trial Court on a compromise filed by the complainant/non-petitioner No. 2 compounding the offences under Sections 323 and 498-A, IPC. The offence under Section

323 IPC, being compoundable, the trial Court accepted the compromise and the petitioners were acquitted of the offence under Section 323 IPC. However, the offence under Section 498-A, IPC, being non-compoundable, the trial Court declined to record the compromise for that offence.

Before me, complainant/non-petitioner No.2 as also the petitioner appeared. Non-petitioner/complainant, whose presence has been identified by Mr. Neel Kamal Bohra, counsel for the complainant/non-petitioner, submits that she has compromised the matter with the petitioners and parties have settled their dispute amicably and a petition under Section 13-B of the Hindu Marriage Act, 1955 seeking dissolution of marriage by mutual consent was moved before the Family Court, Jodhpur and by the judgment and decree dated 12-10-2006 passed by the Family Court, the marriage solemnized between the complainant/non-petitioner No.2 and her husband petitioner No.1 Niranjan Vyas has been dissolved; the parties wish to live separately and lead a peaceful life and, therefore, she does not wish to prosecute the present petitioners. She has also filed a compromise before this Court supported by her affidavit.

Having regard to the facts and circumstances and keeping in view the fact that the parties have amicably settled the dispute, got the marriage solemnized between them dissolved and the complainant/non-petitioner No.2 does not wish

to prosecute the petitioners and in the circumstances, no evidence is likely to come against the petitioners even if the proceedings are allowed to continue, therefore, no useful purpose would be served in allowing the proceedings to continue, which will be nothing more than a futile exercise. Therefore, keeping in view the decision of the Hon'ble Supreme Court in B.S. Joshi & ors. Vs. State of Haryana & Anr., 2003 SCC (Cri.) 848, in my view, the compromise deserves to be accepted and the proceedings against the present petitioners deserve to be quashed.

In the result, the criminal miscellaneous petition is allowed and the criminal proceedings instituted on the complaint instituted by the non-petitioner No.2 against the petitioner in Criminal Case No. 201/2002 before the trial Court, are quashed.

(H.R. PANWAR), J.

mcs